

DAVID L. ROTHMAN  
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U.S. DISTRICT COURT  
 WESTERN DISTRICT MICH  
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**IN THE UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF MICHIGAN**

MERRY CHANCE INDUSTRIES, LTD.,	)	
	)	
Plaintiff,	)	Civil Action No. 1:06CV0831
	)	
Vs.	)	ANSWER TO COMPLAINT
	)	FOR PATENT INFRINGEMENT
KOHL'S CORPORATION,	)	AND COUNTERCLAIM FOR
KOHL'S ILLINOIS, INC.,	)	INTERFERENCE WITH A
KOHL'S DEPARTMENT STORES, INC.,	)	COMMERCIAL RELATIONSHIP
DLR PRODUCTS, INC.,	)	AND UNFAIR COMPETITION
NATIONAL BROOM COMPANY OF	)	15 U.S.C. 1125(a)
CALIFORNIA, INC. (d/b/a JLR GEAR),	)	
and DAVID L. ROTHMAN,	)	Wendell A. Miles
	)	Senior, U.S. District Judge
Defendants.	)	

**ANSWER TO COMPLAINT and COUNTERCLAIMS**

David L. Rothman in his individual capacity answers the foregoing complaint as follows:

**NATURE OF ACTION**

1. The above entitled action is for willful patent infringement relative to U.S. Patent No. 7,059,006 which issued on June 13, 2006. The essence of the patent is that it involves a silicone brush with removable tines. Defendant David L. Rothman in his individual capacity on information and belief will allege that the plaintiff Merry Chance Industries, LTD. and others unknown have conspired to interfere with his commercial relationship with Kohl's

1 Department Stores, Inc. and have committed various acts of unfair competition. Upon  
2 receiving notice of the alleged infringement by counsel for Merry Chance Industries, LTD.  
3 David L. Rothman immediately ceased selling the product, offered to pay a 10% royalty,  
4 voluntarily tendered an accounting of all sales, and offered to deliver his molds to the  
5 plaintiff and/or counsel. On information and belief, it is the position of the defendant David  
6 L. Rothman that this offer was rejected by the plaintiff and others because they were not  
7 interested in receiving a reasonable royalty, but had ulterior motives, i.e. to commit acts of  
8 unfair competition, interfere with his commercial relationship with Kohl's Department  
9 Stores, and use this patent lawsuit as a pretext to obtain large sums of money from David L.  
10 Rothman unrelated to any reasonable claim for alleged patent infringement.

11 **PARTIES JURISDICTION and VENUE**

- 12 2. Defendant answers paragraph 2 of plaintiff's complaint as follows: He is without knowledge  
13 or information sufficient to form a belief as to the representations in this paragraph.
- 14 3. Admitted.
- 15 4. Admitted.
- 16 5. Admitted.
- 17 6. Admitted.
- 18 7. Admitted.
- 19 8. Admitted.
- 20 9. David L. Rothman asserts that he is without knowledge of the relationship between Innovate  
21 LLC of Harbor Springs, Michigan pertaining to any rights related to the patent that is the  
22 subject matter of this lawsuit.
- 23 10. Admitted.
- 24 11. David L. Rothman denies that the brushes infringed the patent that is the subject matter of the  
25

above entitled action.

12. Defendant denies that venue is proper under 28 U.S.C. 1391 and 1331 and on information and belief further asserts that Innovate LLC of Harbor Springs, Michigan is not a corporation organized and licensed to do business under the laws of the State of Michigan and that none of the defendants reside in this judicial district.

13. Defendant denies that the '006 Patent was duly and legally issued.

14. Defendant denies that the '006 Patent was duly and legally issued.

15. Defendant is without information sufficient to form a belief as to whether or not Merry Chance Industries, LLC is an assignee of the '006 Patent.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. David L. Rothman admits that DLR Products, Inc. sold the Smart BBQ Silicone Basting Brush Set to Kohl's but denies any infringement of the '006 Patent.

23. Admitted.

24. Denied

25. Denied.

26. Denied.

27. Admitted.

28. Admitted.

29. Admitted.

30. David L. Rothman alleges that as soon as he received a Cease and Desist letter from counsel representing Merry Chance, he immediately stopped selling the product and as a consequence denies paragraph 30.

31. David L. Rothman represents that he was unaware of the '006 Patent, had no knowledge of a removable brush head and the packaging on the silicone brush set did not represent that the brushes enclosed in the package were changeable. As a consequence, paragraph 31 is denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Admitted.

39. Defendant does not have knowledge or information necessary to form a belief as to the representations made in this paragraph.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

**COUNTERCLAIMS**

1. Defendant David L. Rothman in his individual capacity incorporates by reference as if fully set forth herein each and every allegation stated in paragraphs 1 through 47 of his Answer.
2. Assuming that Venue is determined to be proper for the Claims asserted in Merry Chance's Complaint then venue is proper for the Counterclaims under 28 U.S.C. 1391(b) and (c).
3. On information and belief, David L. Rothman alleges that Merry Chance Industries, LLC and others have conspired to interfere with, damage, and destroy his relationship with Kohl's Department Stores, Inc.
4. On information and belief, David L. Rothman alleges that Merry Chance Industries, LLC and others have conspired to commit acts of unfair competition in violation of 15 U.S.C. 1125(a).

**PRAYER FOR RELIEF**

- A. Defendant David L. Rothman in his individual capacity respectfully requests for dismissal of the Merry Chance Industries, LTD complaint;
- B. For an order that patent no. 7,059,006 is invalid;
- C. For an order of the court declaring that David L. Rothman has not committed any acts of infringement relative to the '006 Patent;
- D. For damages according to proof on his Counterclaim for interference with a commercial relationship with Kohl's Department Stores committed by Merry Chance Industries, LTD and others;
- F. For damages according to proof on his Counterclaim pertaining to unfair competition committed by Merry Chance Industries, LTD. and others;
- E. For such further and other relief as the court may deem just and proper.

Respectfully submitted:



DAVID L. ROTHMAN

3/12/07  
DATE